

The Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RICHARD THAYNE MUTSCHLER,
Plaintiff,

v.

UNITED STATES OF AMERICA,
Defendant.

NO. CV16-00281 TSZ

**ORDER DECLARING
PETITIONER'S ATTORNEY-
CLIENT PRIVILEGE WAIVED AS
TO ISSUES RAISED IN HIS
AMENDED MOTION UNDER 28
U.S.C. § 2255**

The Government's unopposed Second Motion for Order Declaring Petitioner's Attorney-Client Privilege Waived as to Issues Raised in His Amended Motion under 28 U.S.C. § 2255, docket no. 20, is GRANTED; and IT IS HEREBY ORDERED that Defendant-Petitioner Richard Thayne Mutschler, by raising issues related to his legal representation in his § 2255 Motion, has waived his attorney-client privilege and work product doctrine protections for the purpose of litigation of that motion. Mr. Mutschler has waived the attorney-client privilege and work product doctrine with regard to documents, communications, lack of communications, information, and materials, related to:

- 1 1. Any deals, agreements, or understandings, whether written or verbal, in final or
2 draft form, discussed or reached with the United States Attorneys' Office
3 related to Mr. Mutschler's case;
4 2. Any restitution that might have been ordered or that might have resulted from
5 Mr. Mutschler's case;
6 3. Any information regarding Mr. Mutschler's decision to plead guilty or go to
7 trial;
8 4. Any evidence or materials developed through any investigation conducted by
9 Mr. Mutschler or his attorneys or produced by the government in Mr.
10 Mutschler's case, including whether Mr. Mutschler had or could have had
11 access to those materials;
12 5. Any information regarding who represented Mr. Mutschler in his case and who
13 provided him legal advice; and
14 6. Any filings, objections, or representations made or not made to the United
15 States Attorneys' Office or the Court.

16 Accordingly, Mr. Mutschler's prior attorneys, including but not limited to
17 J. Gregory Lockwood and any current or former attorneys at Liberty Bell Law Group
18 (together "trial counsel"), are hereby directed to participate in interviews with the
19 Government related to their representation of Mr. Mutschler, including otherwise
20 privileged legal communications, and to provide the Government reasonable assistance in
21 preparing affidavits or declarations regarding such information. Trial counsel is also
22 directed to produce to the Government documents and records related to the allegations
23 set forth in Mr. Mutschler's Section 2255 Motion.

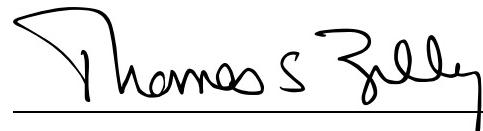
24 IT IS FURTHER ORDERED that, absent further orders from this Court, the
25 evidence provided pursuant to this Order shall be used solely for the purpose of litigating
26 Mr. Mutschler's Section 2255 Motion and shall not be admissible against Mr. Mutschler
27 in any other proceeding. This Order shall remain in effect even after the Court has ruled
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1 on the Section 2255 Motion. Both parties retain the right to apply to the Court for
2 modification of this Order.

3 IT IS SO ORDERED.

4 DATED this 25th of August, 2017.

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11 Thomas S. Zilly
12 United States District Judge
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Presented by:

13 /s/ *Nicholas Manheim*

14 Nicholas Manheim
15 Assistant United States Attorney